

REMARKS

Applicants are submitting this paper to request correction of the Examiner's erroneous remarks in the Interview Summary attached to the office communication, and in response to the requirement in the last paragraph of the Interview Summary requiring that a formal written reply to the last Office Action include the substance of an interview, documenting a telephone interview on February 28, 2008 between Examiner Marcus Menezes, the Examiner's Supervisor Robert Sandy, and Applicant's counsel Lawrence Crowe.

The Applicants note that the required "Substance of the Interview" was provided as part of Applicants' written Response filed electronically on February 29, 2008. That Response included the following:

APPLICANTS' RECORD OF AN EXAMINER INTERVIEW

On February 28, 2008, Applicants' Counsel Lawrence E. Crowe, Examiner Marcus Menezes, and Mr. Menezes' Supervisor Examiner Sande discussed the Office Action dated November 30, 2007 during a telephone interview. The Applicants' Counsel greatly appreciates the courtesies extended by Examiners Menezes and Sande during the telephone interview.

As a result of the interview, it was agreed that U.S. Patent No. 1,731,704 to Carr was silent with respect to specific limitations of both independent claim 3 and independent claim 30, from which all of the other claims depend. Specifically, it was agreed that Carr did not disclose that the stud B of Carr was connected to the threaded screw passing through the stud B as required by the limitations of claims 3 and 30 of the present application, and further did not disclose that applying a torque to the stud B as required by claim 3 would in any way be sufficient for threading the screw of Carr into the floor. It was further agreed that Carr would be removed as a reference for supporting any of the rejections under either 35 USC § 102 or 35 USC § 103.

It was also agreed that, as a result of removal of Carr as a reference, the Office Action does not provide proper support for a rejection of any of the claims currently under consideration.

It was further agreed that, procedurally, the Applicants would submit a Response to the Office Action traversing the rejection of all claims, and that the next communication from the Examiner would be either a Non-Final Office Action on new grounds not necessitated by any amendment by the Applicants, or a Notice of Allowance.

Given the above, the Applicants believe that the requirement to submit a written statement of the substance of the interview on February 28, 2008 has been previously satisfied by the Applicants and that no additional submission is required.

The Applicants further note that the Examiner's Interview Summary was incomplete and erroneous in that it did not include a statement that the Examiner, the Examiner's supervisor and the Applicants' counsel agreed during the interview that removal of Carr as a reference left no basis for rejecting any of the claims under either 35 USC § 102 or 35 USC § 103. The Examiner's Interview Summary is further deficient in that it does not state that agreement was reached that as a result of removal of Carr as a reference, the last Office Action provided no support for rejection of any of the claims under consideration.

The Applicants further note that the Examiner's Interview Summary, which was mailed on March 11, 2008, well after the Applicants' electronic submittal on February 29, 2008 of a written Response to the last Office Action including the requisite statement of the substance of the Examiner interview, constitutes Examiner error which has resulted in unnecessary expenditure of time and money by the Applicants and their counsel. The Applicants believe, therefore, that at the time of issuance of a patent from the present patent application, the term of the patent should be extended to account for this unnecessary delay caused by the Examiner's erroneous issuance of a requirement, with a one-month period for response, which was totally unnecessary and uncalled for in light of the Applicants already having fully complied with the statutory requirements for including a substance of the interview statement in the formal written Response to the last Office Action.

The Applicants further respectfully remind the Examiner that this patent application is subject to a Petition to Make Special, and request that the Examiner exercise due care in the remaining of the prosecution to avoid further unnecessary delay and expense to the Applicants.

The Applicants also respectfully suggest that, given the agreement reached during the telephone interview, the last Office Action on the merits included no basis for rejecting any of the claims, that the claims are reasonably believed to be allowable by the Applicants, and that any subsequent Office Action should be non-final if the Examiner wishes to state new grounds for rejection.

The Applicants also wish to remind the Examiner of the formal request for an Examiner telephone conference, included in the formal Response filed on February 29, 2008, prior to issuing another Office Action, should the Examiner believe that the claims are not allowable in their current state.

In re Appln. Of: James R. Michler
Application No.: 11/391,888

Applicants further believe that no fees are occasioned by submittal of this paper. However, should submittal of this paper occasion fees or refunds, the Commissioner is hereby authorized to charge those fees or credit those refunds to Deposit Account No. 50-3505.

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